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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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William L. Thomas

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ROPES & GRAY LLP
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EXAMINER

SHANG, ANNAN Q

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/829,806	Applicant(s) THOMAS ET AL.	
	Examiner ANNAN Q. SHANG	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 84-101, 103, 104, 106-126, 128, 129, 131-151, 153, 154, 156-176, 178, 179 and 181-183 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/23/07</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims pending in the application are 84-101,103,104,106-126,128,129,131-151,153,154,156-176,178,179 and 181-183.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/18/08 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 84-101, 103, 104, 106-126, 128, 129, 131-151, 153, 154, 156-176, 178, 179 and 181-183 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 84-90, 93-115, 118-140, 143-165 and 168-183 are rejected under 35 U.S.C. 102(e) as being anticipated by **Goode et al (6,684,400)** and claims 91-92, 116-117, 141-142 and 166-167 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goode et al (6,684,400)** as applied to claims 90, 115, 140 and 165 above, and further in view of **Hendricks et al (5,798,785)**, Applicant discusses the claimed invention, amends claims and further argues that the prior arts of record do not teach the amended claim limitations (see page 23+ of Applicant's Remarks).

In response, Examiner disagrees. Examiner notes Applicant's arguments; however, the SOD service indicates a sub-group option but not a source of a media as

discussed by Applicant. Goode teaches providing media group options (Service 1-3) and further provides a media sub-group option, but silent as to two or more sub-group options as discussed below in the office action. The amendment to the claims necessitated the new ground(s) of rejection. **This office action is non-final**

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 84-90, 93-115, 118-140, 143-165 and 168-183, are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goode et al. (6,684,400)**.

As to claims 84-86, note the **Goode** reference figures 1 and 4-9, discloses method and apparatus for providing dynamic pricing services for an interactive information distribution system and further discloses method for allowing a user of an interactive media guide to access media provided by a plurality of media sources, the method comprising:

Providing media group options (Service 1-3) and media sub-group options (SOD Service) associated with at least some of the media group options, where the media group options and at least some of the media sub-group options indicate media available to the user without indicating the content of the media, without indicating the title of the media and without indicating the source of the media (fig.4, col.8, line 46-56);

Providing media indicators in response to the user selecting one of the media sub-group options, where the media indicators are associated with the selected media sub-group options, the media indicators identify media provided by at least one of the media sources, and the media indicators includes media indicator for scheduled media and a second media indicator for unscheduled and where unscheduled media includes media that is provided at a scheduled time and available for viewing at a time selected by the user (col.8, line 57-col.9, line 65); and

Performing an action associated with a media indicator in response to the user selecting a media indicator, providing the media indicator that is identified by the selected media indicator in response to the user selecting the media indicator and indicating the number of presently available media that are associated with a media group option (col.8, line 57-col.9, line 65).

Goode silent as to, providing media sub-group **option(s)** as claimed.

However, Goode teaches providing a plurality of media group options (Service 1-3) and a media sub-group option

Hence it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goode system with a plurality of media sub-group options that are available to the user to enable a user to select a desired sub-group option as needed.

As to claims 87-89, Goode further discloses where the media group options, are defined by the user, meet user-defined criteria and where the user-defined criteria is a user-defined search (col.8, line 57-col.9, line 3).

As to claim 90, Goode further discloses where the plurality of media group options comprises at least one of a recent favorites media group option, an old favorites media group option, a recommendations media group option, browsing media group option, special interest media group option, a categories media group option, or a preview scan media group option (col.8, line 57-col.9, line 65).

As to claim 93-96, Goode further discloses where the plurality of media indicators are associated with browsing media group option and are presented in response to the user selecting the browsing media group option, further comprising displaying in a video window content corresponding to the selected media indicator associated with the browsing media group option in response to the user selecting a media indicator associated with the browsing media group option, where the video content is current available, where the video is a video clip and the video content is a video trailer (figs.5-9 and col.8, line 57-col.9, line 65).

As to claim 97-99, Goode further discloses displaying a plurality of media sub-group options associated with the categories media group option in response to the user selecting the categories media option; and displaying the plurality of media indicators in response to the user selecting a media sub-group option, where the media indicators are associated with the selected media group option and indicates the number of media indicators that are associated with each of the plurality of media sub-group options and comprises sports sub-group option, popular shows, a premier and a group sub-group option (figs.5-9 and col.8, line 57-col.9, line 65).

As to claim 100, Goode further discloses displaying the plurality of media indicators in response to the user selecting the preview scan media group option, where the plurality of media indicators are associated with the preview scan media group option, and displaying in a video window video content corresponding to a selected media indicator in response to the user selecting a media indicator associated with the preview scan media group option (figs.5-9 and col.8, line 57-col.9, line 65).

As to claim 101, Goode further discloses obtaining media from a local file server, a remote file server, a pre-recorded videotape, a television station or audio station (col.8, line 57-col.9, line 65).

Claim 102 is met as previously discussed with respect to claim 97.

Claim 103 is met as previously discussed with respect to claim 98.

As to claim 104, Goode further discloses where the plurality of media sub-group options indicate, presently available media by indicating the content, title or source of the media (col.8, line 57-col.9, line 65).

Claim 105 is met as previously discussed with respect to claim 100.

Claim 106 is met as previously discussed with respect to claim 87-89.

As to claim 107-108, Goode further discloses where the media sub-group options are displayed according to criteria defined by a remote service created dynamically (col.8, line 57-col.9, line 65).

As to claims 109-111, the claimed "an interactive media guide system for allowing a user to access media...comprising..." contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 112-114 are met as previously discussed with respect to claims 87-89.

Claim 115 is met as previously discussed with respect to claim 90.

Claims 118-121 are met as previously discussed with respect to claims 93-96.

Claims 122-124 are met as previously discussed with respect to claims 97-99.

Claim 125 is met as previously discussed with respect to claim 100.

Claim 126 is met as previously discussed with respect to claim 101.

Claim 127 is met as previously discussed with respect to claim 97.

Claim 128 is met as previously discussed with respect to claim 98.

Claim 129 is met as previously discussed with respect to claim 104.

Claim 130 is met as previously discussed with respect to claim 100.

Claim 131 is met as previously discussed with respect to claims 87-89.

Claims 132-133 are met as previously discussed with respect to claims 107-108.

As to claims 134-136, the claimed “an interactive media guide system for allowing user to access media...comprising...” contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 137-139 are met as previously discussed with respect to claims 87-89.

Claim 140 is met as previously discussed with respect to claim 90.

Claims 143-146 are met as previously discussed with respect to claims 93-96.

Claims 147-149 are met as previously discussed with respect to claims 97-99.

Claim 150 is met as previously discussed with respect to claim 100.

Claim 151 is met as previously discussed with respect to claim 101.

Claim 152 is met as previously discussed with respect to claim 97.

Claim 153 is met as previously discussed with respect to claim 98.

Claim 154 is met as previously discussed with respect to claim 104.

Claim 155 is met as previously discussed with respect to claim 100.

Claim 156 is met as previously discussed with respect to claims 87-89.

Claims 157-158 are met as previously discussed with respect to claims 107-108.

As to claims 159-161, the claimed “an interactive media guide system for allowing user to access media...comprising...” contains the same structural elements that were discussed in the rejection of claims 84-86.

Claims 162-164 are met as previously discussed with respect to claims 87-89.

Claim 165 is met as previously discussed with respect to claim 90.

Claims 168-171 are met as previously discussed with respect to claims 93-96.

Claims 172-174 are met as previously discussed with respect to claims 97-99.

Claim 175 is met as previously discussed with respect to claim 100.

Claim 176 is met as previously discussed with respect to claim 101.

Claim 177 is met as previously discussed with respect to claim 97.

Claim 178 is met as previously discussed with respect to claim 98.

Claim 179 is met as previously discussed with respect to claim 104.

Claim 180 is met as previously discussed with respect to claim 100.

Claim 181 is met as previously discussed with respect to claims 87-89.

Claims 182-183 are met as previously discussed with respect to claims 107-108.

5. Claims 91-92, 116-117, 141-142 and 166-167 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Goode et al (6,684,400)** as applied to claims 90, 115, 140 and 165 above, and further in view of **Hendricks et al (5,798,785)**.

As to claims 91-92, 116-117, 141-142 and 166-167, Goode teach providing media indicators in response to the user selecting a media group option and further teach providing promotional media indicators in response to the user selecting the media group option, but fail to explicitly teach recommendations media group option.

However, in the same field of endeavor, Hendricks teaches recommendations (suggesting of programs) media group options (col.28, line 66-col.29, line 25, lines 49-65 and col.33, line 66-col.34, line 19).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Hendricks into the system of Goode to recommend or suggest programs, channels, media groups, etc., to the user and provide alternate services to the user, in situation where the requested service is unavailable.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone

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number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, **call 800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

/Annan Q Shang/

Primary Examiner, Art Unit 2623

Annan Q. Shang